

**REMARKS****Summary of the Office Action**

Claims 1, 4, 7, 10 and 13 stand rejected under 35 U.S.C. § 112, ¶ 2, as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. Claim 1 recites the limitation “the two adjacent points” in lines 37 and 38 without an antecedent basis. Claims 4 and 10 recite the limitation “the two adjacent points” in lines 8 and 9 of the claims also without an antecedent basis. Claims 7 and 13 fall together accordingly.

Claim 7 stands provisionally rejected on the ground of double patenting under 37 C.F.R. § 1.75, as being a substantial duplicate of claim 1.

Claims 2-3, 5-6, 8-9, and 11-12 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,041,030 to *Ohmi* in view of U.S. Patent No. 6,842,414 to *Park*, in further view of JP Publication No. 06-187712 to *Morioka et al.*

**Summary of the Response to the Office Action**

Independent claims 1, 2, and 8 have been amended. No new matter has been introduced.

Dependent claims 7 and 13 have been amended. No new matter has been introduced.

Dependent claims 4 and 10 have been canceled without prejudice or disclaimer.

Accordingly, claims 1-3, 5-9, and 11-13 are presently pending.

**ALL CLAIMS RECITE ALLOWABLE SUBJECT MATTER****35 U.S.C. § 112 Rejections**

Claims 1, 4, 7, 10 and 13 stand rejected under 35 U.S.C. § 112, ¶ 2, as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. The limitations of canceled claims 4 and 10 have been incorporated into amended claims 2 and 8, respectively. Claims 1, 2, and 8 have been amended to recite “two adjacent

points” to address the antecedent basis concern. Accordingly, Applicant respectfully requests that the rejection of claims 1, 2, 7, 8, and 13 under 35 U.S.C. § 112, ¶ 2 be withdrawn.

### **Double Patenting Rejection**

Claim 7 stands provisionally rejected on the ground of double patenting under 37 C.F.R. § 1.75, as being a substantial duplicate of claim 1. As amended, claim 7 depends from claim 2 and does not recite each and every limitation of claim 1. Specifically, claim 1 recites at least the limitation “wherein, in the case where the chucking means repeats the chucking of the optical disk, the measurement means, without rotating the optical disk, again measures the focusing drive voltages for the focusing servo at the point near the center of the optical disk and the point near the outer edge of the optical disk, and the control means compares, with the first reference value, the difference between the focusing drive voltages, and when the difference is greater than the first reference value, permits the chucking means to release the optical disk and the tray means to discharge the optical disk.” Claim 2, and thus claim 7, does not recite this limitation. Accordingly, the double patenting rejection of claim 7 should be withdrawn.

### **35 U.S.C. § 103(a) Rejections**

Claims 2-3, 5-6, 8-9, and 11-12 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,041,030 to *Ohmi* in view of U.S. Patent No. 6,842,414 to *Park*, in further view of JP Publication No. 06-187712 to *Morioka et al.* Applicant respectfully traverses the rejections for at least the following reasons.

As amended, independent claim 2 includes the limitations of allowable claim 4 (now canceled). Accordingly, claim 2 recites allowable subject matter.

Applicant respectfully asserts that dependent claims 3 and 5-7 are allowable at least because of their dependence on claim 2.

As amended, independent claim 8 should be allowed, according to Page 6 of the Office Action, because it has “limitations similar to those treated in . . . regard to claim[] 2,” and claim 2 recites allowable subject matter.

Applicant respectfully asserts that dependent claims 9 and 11-13 are allowable at least because of their dependence on claim 8.

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**CONCLUSION**

In view of the foregoing, Applicant respectfully requests reconsideration and the timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of the Response, the Examiner is invited to contact the Applicant's undersigned representative to expedite prosecution.

**EXCEPT** for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account No. 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

**MORGAN, LEWIS & BOCKIUS LLP**

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By: Mary Jane Boswell  
Mary Jane Boswell  
Reg. No. 33,652

**CUSTOMER NO. 009629**  
**MORGAN, LEWIS & BOCKIUS LLP**  
1111 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004  
Tel: 202-739-3000  
Fax: 202-739-3100